instituted before the automobile had been found, under the reasoning of the English cases appellee could have recovered for the full amount of the machine; that is, that the date of the starting of the suit fixed the time of recovery for a total loss, if the machine had not been found before that date. Obviously, in order to make an insurance policy of this kind of value to the owner of the property, there must be some time fixed after which the return of the automobile will not release the company from liability. Automobiles are so generally used in business affairs and other activities of life that public policy requires that a person having a theft policy should not be compelled to wait indefinitely on the chance of having the stolen automobile recovered, or be compelled to incur the expense of buying a new one and thereafter taking the old one back, if recovered. Fairly construed, we think this insurance policy intended to fix the date at sixty days after the notice and satisfactory proof of loss had been received by the company,—in other words, to fix the date at which the insured would not be compelled to take the stolen car back, even if recovered, at the date when the insurance money was agreed to be paid."

Bills and Notes—Want of Consideration.—In Dougherty *v.* Salt, 125 N. E. 94, the Court of Appeals of New York held that a promissory note, executed and given to a nephew was a gift, is unenforceable.

The court said: "This is a case where the testimony in disproof of value comes from the plaintiff's own witness, speaking at the plaintiff's instance. The transaction thus revealed admits of one interpretation, and one only. The note was the voluntary and unenforcible promise of an executive gift. Harris *v.* Clark, 3 N. Y. 93, 51 Am. Dec. 352; Holmes *v.* Roper, 141 N. Y. 64, 66, 36 N. E. 180. This child of 8 was not a creditor, nor dealt with as one. The aunt was not paying a debt. She was conferring a bounty. Fink *v.* Cox, 18 Johns. 145, 9 Am. Dec. 191. The promise was neither offered nor accepted with any other purpose. 'Nothing is consideration that is not regarded as such by both parties.' Philpot *v.* Gruninger, 14 Wall. 570, 577 [20 L. ed. 743]; Fire Ins. Ass'n *v.* Wickham, 141 U. S. 564, 579, 12 Sup. Ct. 84, 35 L. ed. 860; Wisconsin & M. Ry. Co. *v.* Powers, 191 U. S. 379, 386, 24 Sup. Ct. 107, 48 Ld. ed. 229; De Cicco *v.* Schweizer, 221 N. Y. 431, 438, 117 N. E. 807, L. R. A. 1918E 1004, Ann. Cas. 1918C 816. A note so given is not made for 'value received,' however its maker may have labeled it. The formula of the printed blank becomes, in the light of the conceded facts, a mere erroneous conclusion, which cannot overcome the inconsistent conclusion of the law. Blanshan *v.* Russell, 32 App. Div. 103, 52 N. Y. Supp. 963, affirmed on opinion below 161 N. Y. 629,

55 N. E. 1093; Kramer *v.* Kramer, 181 N. Y. 477, 74 N. E. 474; Bruyn *v.* Russell, 52 Hun. 17, 4 N. Y. Supp. 784. The plaintiff through his own witness has explained the genesis of the promise, and consideration has been disproved. Neg. Instr. Law, § 54 (Consol. Laws, c. 38)."

Carriers—Ejection of Passenger—Failure to Pay Excess Fare.—In Louisville & N. R. Co. *v.* Harper, 83 So. 142, the Supreme Court of Alabama held that where the plaintiff boarded a train with a ticket to a certain station, and before arriving there informed the conductor that he had decided to go on to another station, and the conductor directed him to get off at the first station, and buy a ticket, and he got off, but could not get a ticket because the agent was not in the ticket office, and he could not find him, the carrier was liable for damages for ejecting him because he did not pay an excess fare chargeable in addition to the regular fare when the fare is paid in cash.

The court said: "Under the law the conductor in charge of the train, in the discharge of the duties of his employment, is vested with the power of the defendant company in the collection of fares from passengers, and to that end is its vice principal, and may subject said company to liability for his acts while he is so acting. Republic I. & S. Co. *v.* Self, 192 Ala. 403, 407, 68 So. 328, L. R. A. 1915F 516; A. G. S. R. R. Co. *v.* Baldwin, 113 Tenn. 409, 82 S. W. 487, 67 L. R. A. 340, 3 Ann. Cas. 916. Railroad conductors make reasonable arrangement as to passengers transported under their direction, and may inform passengers what will be required of them, and bind the company by such information so given, in the discharge of the duties of their employment. Wright *v.* Glens Falls, etc., R. R. Co., 24 App. Div. 617, 618, 48 N. Y. Supp. 1026; Chicago, etc., R. R. Co. *v.* Burns (Tex. Civ. App.), 104 S. W. 1081, 1083; Dwinelle *v.* N. Y. C. & H. R. R. Co., 120 N. Y. 117, 127, 24 N. 319, 8 L. R. A. 224, 17 Am. St. Rep. 611. * * *"

"It was not necessary that the fare be paid to establish the relation of carrier and passenger, for if the plaintiff had entered the car in good faith, with the implied invitation or consent of the compay's agent, to take passage and with the intention of paying, the relationship is established. B. R. L. & P. Co. *v.* Bynum, 139 Ala. 389, 395, 36 So. 736; N. B. R. R. Co. *v.* Liddicoat, 99 Ala. 545, 549, 13 So. 18. In L. & N. R. R. Co. *v.* Hine, 121 Ala. 234, 237, 238, 25 So. 857, 859, the court said:

"'It does not appear from the complaint, however, that there was any rule of the defendant which required absolutely one who has actually obtained such permission to himself exhibit to the conductor the written evidence of such permission. In the absence of